

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MICHIGAN**

IN RE:

KELLY S. SMITH,

Debtors.

Case No.: GL 14-07772

Chapter 13

Hon. John T. Gregg

Filed: December 17, 2014

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**TRUSTEE'S OBJECTION TO CONFIRMATION**

**NOW COMES** Barbara P. Foley, Trustee, by and through her Attorney, Courtney K. Roberts, and for her *Objection to Confirmation* states as follows:

1. On December 17, 2014, Kelly Smith ("Debtor") filed a Petition for relief under Chapter 13 of the Bankruptcy Code.

2. This case has never been converted, dismissed or reinstated, and the Chapter 13 plan has not yet been confirmed.

3. Debtor's Chapter 13 plan proposes a dividend of \$100.00 or the amount of disposable income paid to the Chapter 13 plan, less additional administrative expenses, paid over the life of the 36 month applicable commitment period [DN 4, ¶¶ I.A and III.F.1].

4. Debtor's proposed Chapter 13 plan, as amended, indicates that Debtor's plan payment shall be \$306.87 semi-monthly [DN 24, provision II.A]; this results in a monthly payment of \$613.74.

5. The Trustee objects to Debtor's failure to turn over all disposable income to her Chapter 13 plan for payment to creditors. 11 U.S.C. § 1325(b)(1)(B); 11 U.S.C. § 1325(a)(1).

6. Debtor has net monthly income of \$3,159.88 [DN 23-1, line 12], and monthly expenses of \$2,495.00 [DN 1, page 32, line 22]. Subtracting monthly expenses from net monthly income, Debtor has monthly disposable income of \$664.88.

7. Comparing Debtor's monthly disposable income to her Chapter 13 plan payment, Debtor is failing to provide \$51.14 per month in disposable income to her Chapter 13 plan, resulting in a substantial under payment of disposable income over the duration of the applicable commitment period.

8. If Debtor is not proposing to pay her disposable income to the Chapter 13 Plan, the Trustee objects to confirmation of Debtor's Chapter 13 Plan as not being proposed in good faith. 11 U.S.C. § 1325(a)(3).

9. The Chapter 13 plan cannot be confirmed unless it meets the confirmation standards of 11 U.S.C. § 1325(a). *Shaw v. Aurgroup Financial Credit Union*, 552 F.3d 447, 462 (6<sup>th</sup> Cir. 2009).

**WHEREFORE** the Trustee respectfully requests that this Court deny confirmation of Debtor's Chapter 13 plan, dismiss the Chapter 13 case, and grant what other relief may be just and equitable.

Respectfully submitted,

BARBARA P. FOLEY  
CHAPTER 13 TRUSTEE

April 22, 2015

/s/ Courtney K. Roberts  
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